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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/603,523	06/23/2000	Edward R. Howorka	P/3331-131	9886

7590 05/05/2005

Steven I. Weisburd  
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP  
1177 Avenue of the Americas  
41st  
New York, NY 10036-2714

EXAMINER
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KARMIS, STEFANOS

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/603,523	Applicant(s) HOWORKA ET AL.	
	Examiner Stefano Karmis	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

1. The following communication is in response to Applicant's amendment filed on 23 December 2004.

#### ***Status of Claims***

2. Claims 1, 7, 13, 19 and 20 are currently amended. Claims 1-23 are currently pending in the application.

#### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection as discussed below. Therefore claims 1-23 stand rejected and Applicant's request for allowance is respectfully declined.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 4, 5, 7 and 10-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Silverman et al. (hereinafter Silverman) U.S. Patent 6,260,025.

Regarding independent claims 1 and 7, Silverman discloses a computer trading system for trading fungible instruments comprising; a communication network for distributing electronic messages (column 4, lines 23-50); a plurality of order input devices connected to the communications network each for generating electronic order messages (column 4, lines 59 thru column 5, line 5); and a plurality of Broker nodes connected to the communications network, each Broker node arranged to perform a brokering function including matching orders and providing market views, prescreened for credit, to trader terminals (column 6, lines 14-29), each Broker node comprising: a store of orders available for trading in the system; means for deriving a market view from the store of orders (column 8, lines 12-26); means for providing a market view from the store of orders (column 8, lines 12-26); means for providing the market view to at least one of the plurality of trader terminal (column 8, lines 12-62); and a matching facility for matching compatible orders submitted by the plurality of order input devices (column 8, line 63 thru column 9, line 29).

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Claim 4, the matching facility in each Broker node comprises means for analyzing the store of orders to select one order matching another order (column 8, line 63 thru column 9, line 29).

Claim 5, each order input device is associated with one Broker node, and the means for providing a market view comprises means for sending price information to each trader terminal derived only from orders in the store of orders provided by other order input devices with which each said trader terminal can deal (column 8, lines 12-26 and Figure 1).

Claim 10, the means for providing the market view to at least one of the plurality of trader terminals comprises means for deriving dealable prices from the orders in the store of orders (column 8, lines 12-26).

Claim 11, the dealable prices are determined from a subset of orders corresponding to traders with which credit is available on a bilateral facility (column 8, line 63 thru column 9, line 29).

Claim 12, the store of orders available for trading is modified at each Broker node in accordance with matches performed by the matching facility (column 8, line 63 thru column 9, line 29).

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Claims 13, 19 and 20, Silverman discloses a computer trading system for trading assets between traders, comprising; a communications network (column 4, lines 23-50); a plurality of order input terminals coupled to the communications network, each order input terminal effective to communicate with a respective order messages including quotes and hits (column 4, lines 59 thru column 5, line 5); and a plurality of broker nodes coupled to the order input terminals and forming at least part of the communications network; wherein: each broker node is effective to analyze at least some of the electronic order messages, to produce a market view, prescreened for credit, based on the electronic order messages and to match a quote with a corresponding hit (column 8, line 63 thru column 9, line 29).

Claims 14 and 21, each trader has a line of credit with every other trader; and a particular broker node produces a particular market view for a particular trader based on the lines of credit between the particular trader and the other traders (column 4, line 59 thru column 5, line 33).

Claim 15, the communication network is arranged in a clique tree configuration (Figure 1).

Claims 16 and 22, the broker node further stores the quotes until a corresponding hit is received (column 8, line 63 thru column 9, line 29).

Claim 17, each broker node is aware of all orders in the communication network (column 8, line 63 thru column 9, line 29).

Claim 18, each broker node produces the market view based on the trader receiving the market view (column 8, line 12-26).

Claim 23, Silverman discloses a trading system, comprising; a plurality of trader terminals which allow traders to: place bids and/or offers into the system; view information concerning bids and/or offers placed into the system by other trader terminals, which bids and/or offers have been prescreened for credit; and accept bids/or offers from other trader terminals; a plurality of broker nodes located at positions which are remote from one another, each trader terminal being associated with a respective one of the broker nodes, each broker node; receiving bids and/or offers from its associated trader terminal or terminals; distributing bids and/or offers received from its associated trader terminal or terminals to at least one other broker node; receiving bids and/or offers originating from trader terminals other than its associated trader terminals from at least one other broker node; creating a market view for each of its associated trader terminal or terminals based upon bids and/or offers placed into the system by other trader terminals, which bids and/or offers have been prescreened for credit (column 8, line 14 thru column 9, line 29).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 2, 3, 6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silverman et al. (hereinafter Silverman) U.S. Patent 6,260,025.

Claims 2 and 3, Silverman teaches that broker nodes provide information to a host that is used to create the order book (column 4, lines 51-58). The host then transmits the order book to the various broker nodes (column 5, lines 41-57). Silverman fails to teach that broker nodes transmit the order book to other broker nodes. Official Notice is taken that broker nodes transferring data in a communication network with one another is old and well known in the art. Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Silverman and include the broker nodes transmitting the order book to other broker nodes because the broker nodes already transmit the



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information used to create the order book and thus it provides an efficient manner for order books to be communicated through the various arbitrators.

Claims 6, 8 and 9, Silverman teaches receiving order updates from the host. Silverman fails to teach that the broker nodes notify other broker nodes of compatible or received orders. Official Notice is taken that broker nodes transferring data in a communication network with one another is old and well known in the art. Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Silverman and include the broker nodes transmitting the compatible and received orders to other broker nodes because the broker nodes already transmit the information used to create the order book and thus it provides an efficient manner for order book updates to be communicated through the various arbitrators.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (571) 272-6744. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully Submitted  
Stefanos Karmis  
27 April 2005



VINCENT MILLIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600